

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of
HARRINGTON et al.

Confirmation No. 4272

Allowed: 2/12/2009

Atty. Ref.: 3594-14

Serial No. 10/613,319

TC/A.U.: 3694

Filed: 07 July 2003

Examiner: Swartz, Jamie H.

For: PROCESS AND APPARATUS FOR CONDUCTING
AUCTIONS OVER ELECTRONIC NETWORKS

* * * * *

5 March 2009

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**COMMENTS ON EXAMINER'S STATEMENT OF
REASONS FOR ALLOWANCE**

Sir:

The listing of claims on page 2, para. 5 of the 2/12/2009 Notice of Allowability is correct but the listing on the first page is incorrect (claim 199 was canceled).

With respect to the Examiner's statements in paragraphs 6-8 on pages 3-4 of the Notice, applicants refer the PTO to other information of record including e.g., additional patentability reasons set forth in their 1/31/08 submission (pages 9-11) & their 10/21/08 submission (pages 20-25). Further, with respect to the "closest prior art", see also 7/21/08 Information Disclosure Statement submitting the Federal Circuit's decision

in *MuniAuction, Inc. v. Thomson Corp.* (appeal number 2007-1485 decided 7/14/08).

With respect to paragraph 6, applicants note that the front page of Ausubel USP 5,905,975 states it is a “continuation-in-part” of certain prior Ausubel applications; see e.g., Ausubel USP 6,026,383 filed 1/4/96 which the Examiner cited/considered on 8/21/07. Applicants further note that while a form PTO-1449 the Examiner initialed/dated on 1/25/07 (and again on 8/21/07) noted a mis-numbering of the Ausubel ‘398 patent, the Examiner also on 8/21/07 initialed/dated a further form PTO-1449 listing the correct number (6,021,398).

In addition, with respect to the Examiner’s statements in paragraphs 7-8, pages 3-4, the applicants presume the PTO recognizes that it is the applicants’ claims that define the invention(s) and that the Examiner does not intend to add limitations to or omit limitations from the allowed claims.

HARRINGTON et al.
Serial No. 10/613,319

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Robert W. Faris/

Robert W. Faris
Reg. No. 31,352

RWF:ej
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100